

# FISCAL NOTE

**Bill #:** SB0240 **Title:** Revise compensation of surface owners for oil or gas operations

**Primary Sponsor:** Stonington, E **Status:** As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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## Fiscal Summary

	<b><u>FY 2004 Difference</u></b>	<b><u>FY 2005 Difference</u></b>
<b>Expenditures:</b>		
General Fund	\$312,180	\$312,180
<b>Revenue:</b>	\$0	\$0
<b>Net Impact on General Fund Balance:</b>	(\$312,180)	(\$312,180)

- |   |  |
|---|--|
| <input type="checkbox"/> Significant Local Gov. Impact    | <input checked="" type="checkbox"/> Technical Concerns           |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts           |
| <input type="checkbox"/> Dedicated Revenue Form Attached  | <input checked="" type="checkbox"/> Needs to be included in HB 2 |

## Fiscal Analysis

### ASSUMPTIONS:

#### **Judiciary**

1. This legislation enables operators (owners or lessees of the oil and gas estate) to petition the district courts to assign appraisers who will make recommendations regarding compensation for damages that may expected to be caused by the operator's proposed oil or gas operations.
2. Either party (surface owner or operator) may demand a trial by jury if either one disagrees with the appraiser's report.
3. According to the draft Montana Oil and Gas Annual Review for 2001, published by the Montana Board of Oil and Gas Conservation, 694 new well permits were issued and 185 expired permits were re-issued in 2001 (a total of 879 permits). Permits are issued for oil, gas and injection pumps. The number of permits for injection pumps is immaterial.
4. The Judicial Branch assumes that the number of permits issued each year will remain materially constant. Therefore, it is assumed that up to 879 permits will be issued in FY 2004 and in FY 2005.
5. The Judicial Branch assumes that 50 percent of the petitions filed will result in a trial by jury. Therefore, there will be approximately 440 civil trials each year. The Judicial Branch would be responsible for the civil jury costs in half of these cases or about 220.
6. In civil jury cases, a pool of 50 jurors is called to service and would be reimbursed \$12. There will be 12 jurors plus one alternate selected to serve on the jury and they will be reimbursed \$25 per day of service.

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7. The Judicial Branch assumes that each trial will last an average of three days. Each jury trial will cost \$1,419  $[(50-13) \times \$12 = \$444] + [(13 \times \$25) \times 3 \text{ days} = \$975]$  for jury fees.
8. The total estimated costs for jury fees expense would be \$312,180  $(220 \times \$1,419)$ .
9. The Judicial Branch also will incur costs associated with juror mileage reimbursements; this additional cost is not quantifiable.

### Department of Natural Resources and Conservation

10. The financial impact of SB 240 cannot be determined at this time. Guidance from the courts would be needed on the degree to which the mineral owner's prior existing right to reasonably utilize the surface is reduced or eliminated by this bill.

### FISCAL IMPACT:

<b>Judiciary</b>	<b>FY 2004 Difference</b>	<b>FY 2005 Difference</b>
<u>Expenditures:</u>		
Operating Expenses	\$312,180	\$312,180
<u>Funding of Expenditures:</u>		
General Fund (01)	\$312,180	\$312,180
<u>Revenues:</u>		
General Fund (01)	0	0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	(\$312,180)	(\$312,180)

### TECHNICAL NOTES:

#### Department of Natural Resources and Conservation

1. Section 2 redefines "operator" to include the mineral estate owner. Since the State of Montana is also a mineral estate owner, SB 240 would establish Board of Oil and Gas Conservation authority to subject the state (instead of the well operator) to bonding, enforcement actions, and litigation regarding activities on state-owned lands.
2. Creation of a split-estate (different mineral and surface estate owners) is a voluntary action carried out by a landowner. In doing so, the landowner chooses to separate the whole estate into two distinct legal entities that are recognized by law as interests in real property. The mineral estate created by the landowner includes, by necessity, the right to make reasonable use of the surface to explore and develop the minerals. At the same time, the landowner encumbers the surface estate with the property rights voluntarily conveyed to the mineral estate.
3. SB 240 requires the mineral property owner to pay (in addition to damages to surface improvements already required under existing statute) for lost value to the surface estate from a property right the mineral estate already possesses (reasonable use of the surface) by which the surface estate is already encumbered. SB 240 does not require the surface estate owner to pay for any reduction to the mineral estate owner's property from the surface owner's utilization of their property right. The ability of the mineral property owner to reasonably utilize their existing legal right to make reasonable use of the surface is significantly diminished by SB 240.

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4. The State of Montana owns and manages approximately 1 million acres of school trust split mineral estate. SB 240 could reduce leasing interest, exploration and production, and royalty revenue to the school trust. These impacts also would reduce the benefit to the school trust when considering land exchanges or sales of surface estate, since the ability to manage and develop the retained mineral estate would be diminished.

### **Judicial Branch**

5. Each district court judge maintains a docket of cases awaiting action in a court. The number of trials per year remains materially constant. It may be necessary to create additional judgeships and hire additional research staff to handle the additional caseload. It is not possible to quantify the effects of this legislation in relation to the potential impacts on each individual district court.